

Apr 18, 2018

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

RICARDO OLIVERA SILVA,

Plaintiff,

v.

ED W CAMPBELL, Director of
Yakima County Department of
Corrections; SCOTT HIMES, Chief of
the Yakima County Department of
Corrections; YAKIMA COUNTY,

Defendants.

No. 1:17-CV-03215-SMJ

**ORDER GRANTING LEAVE TO
AMEND ANSWER**

Before the Court, without oral argument, is Defendants' Motion to Amend/Correct Answer, ECF No. 29. Federal Rule of Civil Procedure 15(a)(2) provides that a party seeking to amend a pleading on a date more than 21 days after the initial pleading was filed may do so only with opposing party's written consent or the court's leave. The rule instructs that the "court should freely give leave when justice requires." *Id.* "The more common reasons for denying leave to amend are that the amendment will result in undue prejudice to the other party, is unduly delayed, is not offered in good faith, or that the party has had sufficient opportunity

1 to state a claim and has failed.” *Komie v. Buhler Corp.*, 499 F.2d 644, 647–48 (9th
2 Cir. 1971) (quoting 3 James Wm. Moore et al., Moore’s Federal Practice ¶ 15.084).

3 Defendants assert that, in the process of responding to Plaintiff’s discovery
4 requests, Defendants reviewed the jail records of nearly five hundred people
5 incarcerated in the Yakima County Jail since 2014. In so doing, Defendants assert
6 that they determined that they had grounds to contest matters that they had
7 previously admitted in their January 24, 2018 answer. Defendants now move to
8 amend their answer to reflect these changes.

9 Specifically, Defendants’ proposed amended answer will include the
10 following changes:

- 11 1. Answering the first sentence of paragraph 1 of the complaint, said
12 sentence contains a general description of the plaintiff’s lawsuit to
13 which no response is required. To the extent a response is required,
14 defendants deny the plaintiff’s characterization of the defendants’
15 policies and practices, ~~but~~ admit that plaintiff was unlawfully
16 detained ~~after he posted bail, and deny that plaintiff was unlawfully~~
17 ~~detained for two days after he posted bail.~~ Answering the second
18 sentence of paragraph 1 of the complaint, defendants deny the same.
19 Answering the third sentence of paragraph 1 of the complaint, DHS
20 Form I-200s and regulations governing DHS speak for themselves.
Answering the fourth sentence of paragraph 1 of the complaint,
~~defendants deny plaintiff’s characterization of the defendants’~~
~~policies and practices but admit that plaintiff was entitled to~~
~~immediate physical release after posting bail and that defendants’~~
~~actions prevented plaintiff from being released from the Yakima~~
~~County Jail defendants deny the same.~~
2. Answering first sentence of paragraph 2 of the complaint, said
sentence contains a general description of the relief sought by the
plaintiff in this lawsuit, to which no response is required. To the extent
a response is required, defendants deny the plaintiff’s characterization

1 of the defendants' policies and practices and further deny that the
2 plaintiff is entitled to the declaratory relief sought. Answering the
3 second sentence of paragraph 2 of the complaint, defendants deny the
4 same. Answering the third sentences of paragraph 2 of the complaint,
5 ~~defendants admit only that defendants' actions violated the plaintiff's~~
6 ~~rights under the Fourth Amendment to the United States Constitution,~~
7 ~~and deny each and every other allegation of said sentence defendants~~
8 ~~deny the same.~~

9 The Court finds that good cause exists to grant Defendants' motion for leave
10 to amend the answer. Because this matter is still in its early stages, the proposed
11 amendments, though substantial, will not prejudice Plaintiff. Defendants brought
12 the motion promptly, and the discovery and dispositive motion deadlines are several
13 months away. Moreover, it does not appear to the Court that the motion is motivated
14 by bad faith.


15 Accordingly, **IT IS HEREBY ORDERED:**

16 **1.** Defendants' Motion to Amend/Correct Answer, **ECF No. 29**, and
17 related motion to expedite, **ECF No. 30**, are **GRANTED**. Defendants
18 shall file an amended answer consistent with ECF 29-1 no later than
19 April 20, 2018.

20 **2.** In light of the changed pleadings, Plaintiff's pending motion for partial
summary judgment, **ECF No. 20**, and all dates and deadlines
associated with that motion, are **STRICKEN**. Plaintiff may file
dispositive motions any time before the dispositive motion deadline.

IT IS SO ORDERED. The Clerk's Office is directed to enter this Order and provide copies to all counsel.

DATED this 18th day of April 2018.


SALVADOR MENDOZA, JR.
United States District Judge